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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/627,371	07/24/2003	Daniel B. Sachuk	249212022700	2455	
25226 75	590 02/23/2006		EXAM	EXAMINER	
MORRISON & FOERSTER LLP			MILLER, BRIAN E		
755 PAGE MILL RD PALO ALTO, CA 94304-1018			ART UNIT	PAPER NUMBER	
THEO HETO,	011 9 130 1 1010		2652		
			DATE MAILED: 02/23/2006		

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
	10/627,371	SACHUK, DANIEL B.
Office Action Summary	Examiner	Art Unit
	Brian E. Miller	2652
The MAILING DATE of this communication app	pears on the cover sheet with the c	correspondence address
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING D Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication If NO period for reply is specified above, the maximum statutory period of the period for reply within the set or extended period for reply will, by statute any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 136(a). In no event, however, may a reply be tin will apply and will expire SIX (6) MONTHS from e, cause the application to become ABANDONE	the mailing date of this communication. (35 U.S.C. § 133).
Status		
1) Responsive to communication(s) filed on 2a) This action is FINAL . 2b) This allows a since this application is in condition for allows closed in accordance with the practice under Expression in the practice of the condition of the condition for allows and the closed in accordance with the practice under Expression in the condition of the condition o	action is non-final. nce except for formal matters, pro	
Disposition of Claims		
4) Claim(s) 1-35 is/are pending in the application 4a) Of the above claim(s) is/are withdray 5) Claim(s) is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) 1-35 are subject to restriction and/or expectation Papers 9) The specification is objected to by the Examine	wn from consideration. election requirement.	
10) The drawing(s) filed on is/are: a) acc Applicant may not request that any objection to the Replacement drawing sheet(s) including the correct	epted or b) objected to by the long drawing(s) be held in abeyance. See tion is required if the drawing(s) is objected to by	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).
11) The oath or declaration is objected to by the Ex	xaminer. Note the attached Office	Action or form PTO-152.
Priority under 35 U.S.C. § 119		
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of: 1. Certified copies of the priority document 2. Certified copies of the priority document 3. Copies of the certified copies of the priority document application from the International Bureau * See the attached detailed Office action for a list	ts have been received. Its have been received in Application of the second state of the second seco	on No ed in this National Stage
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:	•

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Claims 1-35 are pending.

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-11, drawn to data storage cartridge, classified in class 360, subclass 132.
- II. Claims 12-19, 29-35, drawn to a tape drive, classified in class 360, subclass 95.
- III. Claims 20-28, drawn to a tape path, classified in class 360, subclass 93.

The inventions are distinct, each from the other because of the following reasons:

- 2. Inventions II and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed such as a storage cartridge not including a second guide surface. The subcombination has separate utility such as in a tape drive having at least two or more guiding elements.
- 3. Inventions I and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I has separate utility such as in a tape drive which does not require a distance of the tape path between the supply reel within the storage cartridge housing and the first guiding element of the tape drive being increased by the guide surface. See MPEP § 806.05(d).

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4. Inventions II and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed such as not requiring a distance of the tape path between the supply reel within the storage cartridge housing and the first guiding element of the tape drive being increased by the guide surface. The subcombination has separate utility such as in a tape drive having at least two or more guiding elements.

- 5. Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.
- 6. A telephone call was not made to request an oral election to the above restriction requirement, due to time constraints of the Office.
- 7. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.
- 8. The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

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9. Should applicant traverse on the ground that the inventions or species are not patentably

distinct, applicant should submit evidence or identify such evidence now of record showing the

inventions or species to be obvious variants or clearly admit on the record that this is the case. In

either instance, if the examiner finds one of the inventions unpatentable over the prior art, the

evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

10. Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Brian E. Miller whose telephone number is (571) 272-7578. The

examiner can normally be reached on M-TH 7:15am-4:45pm (and every other Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Hoa T. Nguyen can be reached on (571) 272-7579. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Brian E. Miller

Primary Examiner

Art Unit 2652

BEM

February 20, 2006